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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/954,654	09/18/2001	Adolf Proidl	AT 000053	7510
24737	7590	10/07/2005	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			TANG, KAREN C	
			ART UNIT	PAPER NUMBER
			2151	
DATE MAILED: 10/07/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/954,654

Applicant(s)

PROIDL, ADOLF

Examiner

Karen C. Tang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 9/18/01 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/18/01.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

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DETAILED ACTION

- This action is responsive to the amendment and remarks file on 7/25/05.
- Claims 1-7 are presented for further examination, newly entered claims 8-20 are pending for examination.
- The text of those sections of Title 35, U.S. code not included in this office action can be found in a prior office action.

Claim Objections

I. Claims 1-9 are objected to because of the following informalities: 1) Examiner has difficult to understand the clarity of the claims due to grammatical error, thus Examiner will interpret the claims with the best possible, for example in claim 9, "wherein the quality is a measure of "IS" audio data quality. 2) The US patent case does not map the drawing into claims. Appropriate correction is required.

II. Claims 1-10 are objected to because of the following informalities: Referring to claims 1-10, all the labels associated with figures in drawings should be removed from the claim. for example, in claim 1, (3, 4, 5) should be removed

All dependent claims are objected to as having the same deficiencies as the claims they depend from.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8, and 10-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reichman (US 6,738,813) in view of Bilbrey et al hereinafter Bilbrey (US 5,227,863).

1. Referring to Claims 1 and 11, Reichman discloses an internet receiving arrangement (34, Fig 1)(1, 21, 22) for receiving information data (data, refer to Col 1, Lines 55-67) (AD, AVD, BD, ND, ZD) stored in information servers (30, refer to Col 3, Lines 55-67, 40, and 50, and Fig 1) (3, 4, 5) connected to the internet (NET) (refer to Col 4, Lines 40-55), the arrangement having address retrieval means (client getting information from server, refer to Col 4, Lines 20-40) (7) which, when activation information (AKI) (resource availability, refer to Col 5, Lines 35-45) is present, are adapted to retrieve collective address information (sessions, refer to Col 5, Lines 35-67) (ASI) from an address server (6) (40, refer to Col 4, Lines 33-55) connected to the internet, the collective address information (ASI) identifying those information servers (40 and 50, refer to Col 5, Lines 55-67) (3, 4, 5) from which information data (performance data, refer to Col 5, Lines 55-67) (AD, AVD, BD, ND, ZD) processable by the internet receiving arrangement (users, 34, Fig 1)(1, 21, 22) can be retrieved (load and locate, refer to Col 7, Lines 45-67), and having

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information retrieval means (12) for retrieving the processable information data (AD, AVD, BD, ND, ZD) from an information server (3, 4, 5) identified by the retrieved collective address information (AS1), and having
quality test means (refer to Col 7, Lines 35-67) (15) for testing the information data (data stream, refer to Col 7, Lines 55-60) (AD, AVD, BD, ND, ZD) retrieved and received by the information retrieval means (load and locate, refer to Col 7, Lines 45-67.) (12) for supplying the activation information (AKI) to the address retrieval means (7) when the quality of the received information data (AD, AVD, BD, ND, ZD) is below a quality threshold value (refer to Col 7, Lines 35-67) or when no information data (AD, AVD, BD, ND, ZD) processable by the internet receiving arrangement (1, 21, 22) are received from the information server (3, 4, 5).

2. Referring to Claims 2 and 12, Reichman discloses which timer means (18) have been provided which at periodically occurring activation instants (recurring, refer to Col 8, Lines 8-25) supply the activation information (token count reaches X tokens, refer to Col 8, Lines 10-25) (AK1) to the address retrieval means (detect host is idle, refer to Col 8, Lines 10-25) (7) in order to retrieve the collective address information (supply session parameters, refer to Col 8, Lines 10-25) (ASI).

3. Referring to Claims 3 and 13, Reichman discloses in which entry means (13) for the manual entry (script file, script file is made by manual entry, refer to Col 8, Lines 45-67) of the address information (URL request, which is the address information, refer to Col

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8, Lines 45-67) (ASI) of a further information server (30, refer to Col 3, Lines 55-67, 40, and 50, and Fig 1) (3, 4, 5) have been provided from which information data (parameters, refer to Col 8, Lines 45-67) (AD, AVD, BD, ND, ZD) processable by the internet receiving arrangement (virtual users, refer to Col 8, Lines 45-67) (1, 21, 22) can be retrieved.

4. Referring to Claims 4 and 14, Reichman discloses in which the address retrieval means (client getting information from server, refer to Col 4, Lines 20-40)(7), when the activation information (AK1) (resource availability, refer to Col 5, Lines 35-45) is present, are adapted to retrieve transcoding address information (sessions data 52, Fig 1) (TAI) from the address server (6) (30, Fig 1), which transcoding address information (sessions, refer to Col 5, Lines 35-67) (TAI) identifies a transcoding server (50, Fig 1) (20) which is adapted to transcode information data (AD3) stored in an information server (40, Fig 1) (5) but not processable by the internet receiving arrangement (34, Fig 1) (1) into information data (performance data) (AD4) processable by the internet receiving management (32, Fig 1) (1), and in which the information retrieval means are adapted to retrieve the information data (AD4) processable by the internet receiving arrangement (34, Fig 1) (1) from the transcoding server (20) identified by the transcoding address information (TAI).

5. Referring to Claims 5 and 15, Reichman discloses internet receiving arrangement during the time the activation information is present.

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Reichman does not expressly disclose noise generator means, which noise generator means are adapted to supply noise information (RS) to information data processing means (16).

Bilbrey discloses noise generator and the noise information (refer to Col 15, Lines 55-67).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Reichman with Bilbrey.

The suggestion/motivation for doing so would have been that Reichman discloses to wireless device, which emitted the signal, and it is well known in the art that wireless signal normally consists of the noise.

6. Referring to Claims 6 and 16, Reichman discloses in which the address retrieval means (client getting information from server, refer to Col 4, Lines 20-40) (7), when activation information (AKI) is present (resource availability, refer to Col 5, Lines 35-45), are adapted to retrieve at least two items of collective address information (sessions, refer to Col 5, Lines 35-67) (AS11, AS12, ASI3, ASI4, TA1) from at least two address servers (30, refer to Col 3, Lines 55-67, 40, and 50, and Fig 1) (6) connected to the internet (NET) (refer to Col 4, Lines 40-55).

7. Referring to Claims 7 and 17, Reichman discloses which internet (refer to Col 4, Lines 40-55) receiving arrangement is formed by an internet television set (21) (34, refer

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to Fig 1) adapted to receive and process audio/video data (music file, refer to Col 5, Lines 20-40) (AVD) in the form of information data.

8. Referring to Claims 8 and 18, Reichman discloses wherein the information data is audio data (music file is inherently an audio data).

Claims 9 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reichman (US 6,738,813) in view of Bilbrey et al hereinafter Bilbrey (US 5,227,863).

9. Referring to Claims 9 and 19, Reichman expressly indicate perform testing to ensure efficiency of the resource to produce desire load/data as well as indicate the performance of the activity occur within the network to indicate whether the transaction of the data (audio data/music file) is successful. (refer to Col 5, Lines 20-67 and Col 6). Reichman does not expressly indicate quality is the measure of audio data quality: discloses wherein the quality is a measure of audio data quality (to produce the desire load,).

Official Notice is taken that quality is a measure of data quality is commonly well known in the art when performing testing of the data service, the purpose of testing the data is to reinsure whether the data provides the measurement of the data quality.

The suggestion/motivation would have been that Reichman indicate load test is being performed (refer to Col 5).

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10. Referring to Claim 10 and 20, Reichman expressly indicate the servers (refer to 30, refer to Col 3, Lines 55-67)

Reichman does not expressly indicate the server is the radio station.

Official notice is taken that Radio Station comprises server to broadcast information, is well known in the art, thus, lack patent originality.

The suggestion/motivation would have been that Reichman indicate the "Gnutella service that share music file" (refer to Col 5), like radio station, share music by broadcast music data to the user.

Response to Arguments

Applicant's arguments filed 7/25/05, claims 1-20 have been fully considered but they are not persuasive. Providing Final due to amended claims and introduce new scope of the claims.

Applicant argued that (1) Examiner interprets the claims too broad to be considered reasonable. (2) Reichman does not mention anything that could be construed as address retrieval means (3) definition of test data. (4) improper to combine reference of Reichman with Bilbrey.

Examiner traversed the arguments (1) Examiner is entitled to examine applications with the broadest definition possible. According to MPEP, the breadth of the claims in the application should always be carefully noted; that is the examiner should be fully aware

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of what the claims do not call for, as well as what they require. During patent examination, the claims are given the broadest reasonable interpretation consistent with the specification. See *In re Morris*, 127 F.3d 1048, 44 USPQ2d 1023 (Fed Cir. 1997), See MPEP 2111-2116.01 for case law pertinent to claim analysis. (2) address retrieval (messages, which is inherent that IP address of the source/destination, since the message is going through the network from the user/terminal to the server, furthermore, user access the controller/server via "INTERNET", which the user and server comprises IP address to specify the location, refer to Col 5, Col 6, and Col 7). (3) Examiner does not interprets test of the data as monitoring the data, according to Reichman, Col 7, that the testing the data task is being performed, "automatically check the selected transaction (data)," and the user even have the option to select type of testing, to test the data. (4) Regarding with the improperness of combine the reference of Reichman with Bilbrey: In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Reichman with Bilbrey.

The suggestion/motivation for doing so would have been that Reichman discloses to wireless device, which emitted the signal, and it is well known in the art that wireless signal normally consists of the noise.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this Office action is set to expire **THREE MONTHS** from the mailing date of this action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen C. Tang whose telephone number is (571)272-3116. The examiner can normally be reached on M-F 7 - 3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571)272-3939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


ZARNI MAUNG
SUPERVISORY PATENT EXAMINER